

Perry



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Hudson Bay Natural Gas Corporation--Request  
for Reconsideration

**File:** B-237264.2

**Date:** April 18, 1990

Scott H. Robb, Esq., Robb & Henning, for the protester.  
Anne B. Perry, Esq., and John F. Mitchell, Esq., Office of  
the General Counsel, GAO, participated in the preparation of  
the decision.

### DIGEST

Request for reconsideration of prior decision is denied  
where protester fails to show any error of fact or law that  
would warrant reversal or modification of prior decision.

### DECISION

Hudson Bay Natural Gas Corporation requests reconsideration  
of our decision Hudson Bay Natural Gas Corporation,  
B-237264, Feb. 5, 1990, 69 Comp. Gen. \_\_\_, 90-1 CPD ¶ 151,  
wherein we denied Hudson Bay's protest that the Air Force  
improperly applied the small disadvantaged business (SDB)  
evaluation preference set forth in the request for proposals  
(RFP) No. F23606-89-R-0005, issued by the Department of the  
Air Force for natural gas for both Whiteman and McConnell  
Air Force Bases.

We deny the request.

The solicitation was subject to the 10 percent preference  
established by the Department of Defense (DOD) Regulations  
which were issued to implement section 107 of the National  
Defense Authorization Act for fiscal year (FY) 1987, Pub. L.  
No. 99-661, 100 Stat. 3978 (1986), and section 806 of the  
Defense Authorization Act for FYs 1988 and 1989, Pub. L. No.  
100-180, 100 Stat. 1020, 1126 (1987). Hudson Bay contended  
that the Air Force contravened Congress's intent as  
expressed in these laws by applying the 10 percent prefer-  
ence only to the cost adjustment factors rather than to the  
total estimated contract cost, which included the index  
price of the natural gas. We denied the protest on the  
ground that it was reasonable, in the context of a contract  
which incorporated index pricing, to limit the application


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of the preference factor to those portions of the contract which were actually priced by the offerors, and for which the amount paid did not fluctuate.

In its request for reconsideration, Hudson Bay again argues that the Air Force's application of the SDB preference only to the adjustment factors contravenes congressional intent. Again, specifically, Hudson Bay contends that the Air Force's asserted justification for its method of application, that of administrative convenience, is inadequate to override what the protester considers a clear congressional mandate.

Hudson Bay's reconsideration request merely reiterates contentions previously raised and considered in our prior decision. As indicated, we specifically found in our previous decision that the application of the SDB preference only to the adjustment factors was a reasonable interpretation of the DOD Regulations and congressional intent. Hudson Bay's mere disagreement with our previous decision and reassertion of its prior position does not constitute evidence of factual or legal error in our decision, and thus does not warrant reconsidering this matter. Roth Bros., Inc.--Reconsideration, B-235539.2, Sept. 15, 1989, 89-2 CPD ¶ 233.

Accordingly, the request for reconsideration is denied.

  
for James F. Hinchman  
General Counsel